

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, May 26, 2004.

Met at four minutes past eleven o'clock A.M. (Ms. Wilkerson in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Ms. Wilkerson), members, guests and employees then recited the pledge of allegiance to the flag.

Petitions.

Mr. Tarr presented a petition (accompanied by bill, Senate, No. 2349) of Bruce E. Tarr, James R. Miceli and Charles A. Murphy (by vote of the town) for legislation relative to the safe placement of newborns and infants in the town of Wilmington (Local approval received),— **and the same was referred, under Senate Rule 20, to the committee on Human Services and Elderly Affairs.**

Sent to the House for concurrence.

Mr. Tarr presented a petition (accompanied by bill, Senate, No. 2350) of Bruce E. Tarr, James R. Miceli and Charles A. Murphy (by vote of the town) for legislation for a civil service exemption for Joseph A. Vieira III in the town of Wilmington [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Public Service.**

Sent to the House for concurrence.

Mr. Antonioni presented a petition (subject to Joint Rule 12) of Robert A. Antonioni and Emile J. Goguen for legislation relative to the retirement of Richard N. Bourgault,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

Ms. Murray, for the committee on Ways and Means, that the Senate Bill clarifying the eligibility of the employees of the Montachusett Regional Planning Commission to participate in the Commonwealth's group insurance plan (Senate, No. 1399),— ought to pass;

Referred under Senate Rule 26, to the committee on Steering and Policy.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to volunteer physicians (Senate, No. 628), — ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2356); and

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to the town of Lenox and the reimbursement of local room occupancy taxes (Senate, No. 2344),— ought to pass, with an amendment in section 1, by inserting after the word "interest" in the second sentence, the following words:— "in excess of that which is included in the \$600,000 figure,"; and

In section 2, by striking the word "January" and inserting in place thereof the following word:— "July"; and

In said section 2, by striking the following words:— “and shall cease to be effective 120 days after passage”; and

By striking out section 3.

Severally referred, under Senate Rule 26, to the committee on Steering and Policy, with the amendments pending.

By Ms. Fargo, for the committee on Local Affairs and Regional Government, on petition, a Bill to help in the recovering of lost dogs (Senate, No. 134);

By the same Senator, for the same committee, on petition, a Bill to extend the life of impounded dogs (Senate, No. 135);

By the same Senator, for the same committee, on petition, a Bill relative to the licensure of animal control officers (Senate, No. 140);

By the same Senator, for the same committee, on petition, a Bill relative to licensing fees for service dogs (Senate, No. 458);

By the same Senator, for the same committee, on petition, a Bill further clarifying the zoning act (Senate, No. 1143);

By the same Senator, for the same committee, on petition, a Bill relative to municipal bonding for underground utilities (Senate, No. 1162); and

By the same Senator, for the same committee, on petition, a Bill relative to regional charter commissions (Senate, No. 1165);

Severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Mr. Magnani, for the committee on Steering and Policy, reported that the following matters be placed in the Orders of the Day for the next session:

The Senate bills

Relative to assistant assessors in cities and towns (Senate, No. 1179); and

Designating a certain bridge in the town of Barre as Private First Class Edward J. Cormier Memorial Bridge (Senate, No. 2280, changed); and

The House bills

Relative to retirement rights of school committee appointees (House, No. 3960); and

Designating a certain traffic island in the city of Gloucester as the Paul Bergmann Memorial Traffic Island (House, No. 4284).

Papers from the House.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the proceedings of the annual town meeting in the town of Brookfield (House, No. 4756),— **was referred, in concurrence, to the committee on Local Affairs and Regional Government.**

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4720) of Kevin J. Murphy, David M. Nangle, Steven C. Panagiotakos and Thomas A. Golden, Jr., (with the approval of the city council) relative to granting a permanent easement by the city of Lowell to a certain playground known as the Gage Field located in said city;

Petition (accompanied by bill, House, No. 4730) of Jennifer M. Callahan (by vote of the town) that the town of Sutton be authorized to lease certain conservation land to Waters Farm Preservation, Inc.;

Petition (accompanied by bill, House, No. 4731) of Gale D. Candaras (by vote of the town) that the town of East Longmeadow be authorized to borrow a certain sum for eight modular classrooms;

Petition (accompanied by bill, House, No. 4732) of Robert K. Coughlin and Marian Walsh (by vote of the town) relative to the distribution of information to the voters of the town of Dedham;

Petition (accompanied by bill, House, No. 4733) of Robert A. DeLeo and Kathi-Anne Reinstein (with the approval of the mayor and city council) relative to the terms of certain bonds of the city of Revere to be issued to finance the construction of a public safety facility;

Petition (accompanied by bill, House, No. 4734) of Brian S. Dempsey, Steven A. Baddour, Harriett L. Stanley and Barbara A. L'Italien (with the approval of the mayor and city council) that the town of Haverhill be authorized to conduct teleconference meetings of governmental bodies; and

Petition (accompanied by bill, House, No. 4735) of Brian S. Dempsey, Barbara A. L'Italien, Harriett L. Stanley and Steven A. Baddour (with the approval of the mayor and city council) relative to the deferment of the Hale Hospital deficit by the city of Haverhill;

Severally to the committee on Local Affairs and Regional Government.

Petition (accompanied by bill, House, No. 4736) of Brian S. Dempsey, Steven A. Baddour, Harriett L. Stanley and Barbara A. L'Italien (with the approval of the mayor and city council) relative to certain positions of the fire department in the city of Haverhill; and

Petition (accompanied by bill, House, No. 4757) of Bradley H. Jones Jr., Richard R. Tisei and Carol A. Donovan (by vote of the town) relative to exempting the position of chief of police of the town of Reading from the civil service law;

Severally to the committee on Public Service.

Bills

Establishing a sick leave bank for Kevin J. Welch, an employee of the trial court (House, No. 2994,— on petition);

Relative to regional housing cooperations (House, No. 4241,— on House, Nos. 911, 1507 and 3331);

Authorizing the town of Sandwich to grant conservation restriction on certain parcels of land in the town of Sandwich (House, No. 4597,— on petition) [Local approval received];

Relative to housing in the Commonwealth (House, No. 4710,— on the residue of House, No. 3332);

Relative to affordable housing and community planning in the Commonwealth (House, No. 4715, printed as amended,— on Senate, Nos. 701, 704, 705, 706, 712, 719, 722, 726, 739, 741 and 1152 and House Nos. 357, 558, 794, 798, 907, 908, 909, 910, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1293, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1669, 2060, 2243, 2244, 2424, 2439, 2440, 2606, 2607 and 2812) ; and

Relative to the School Building Assistance Program (House, No. 4749, printed as amended,— on printed in House, No. 4520, in part, being a message from His Excellency the Governor);

Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

A Bill relative to home ownership in the Commonwealth (House, No. 4708,— on House, No. 3332, in part),— **was read and, under Senate Rule 26B, referred to the committee on Long-Term Debt and Capital Expenditures.**

A Bill prohibiting discrimination against veterans in employment (House, No. 1053,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Steering and, Policy.**

Subsequently, Mr. Magnani for the said committee on Steering and Policy, reported that the matter be placed in the Orders of the Day for the next session.

Bills

Relative to the operation of motorized scooters (House, No. 1544, amended,— on Senate, No. 1393 and House, Nos. 1544 and 2495);

Relative to unlawful conduct by nonresidents of public housing (House, No. 1705,— on petition);

Relative to municipal lighting plant cooperatives (House, No. 2425,— on petition); and

Establishing municipal affordable housing trust funds (House, No. 4709,— on House, No. 3332, in part);

Were severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Bills

Providing for an animal control commission in the town of Lancaster (House, No. 3879,— on petition) [Local approval received];

Providing for a certain real property tax exemption in the town of Boxford (House, No. 3908, changed,— on petition) [Local approval received];

Authorizing the town of Bellingham to establish a sewer construction capital fund (House, No. 4014,— on petition) [Local approval received];

Eliminating the beautification fund of the town of Braintree (House, No. 4149,— on petition) [Local approval received];

Relative to the town administrator of the town of West Boylston (House, No. 4230,— on House, No. 388) [Local approval received on House, No. 388];

Providing for recall elections in the town of Blandford (House, No. 4280,— on petition) [Local approval received]; and

Authorizing the town of Marion to develop and maintain a subsidized housing plan for low and moderate income housing (House, No. 4631,— on petition) [Local approval received];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

A report of the committee on Local Affairs and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 186) of Demetrius J. Atsalis relative to the transfer of certain funds of the Barnstable Fire District, and recommending that the same be referred to the House committee on Ways and Means,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, insomuch as relates to the discharge of the joint committee.**

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:

The Senate Bill authorizing the city of Revere to reduce water and sewer fee liability in exchange for volunteer services by persons over age 60 (Senate, No. 2223),— **was read a third time and passed to be engrossed. Sent to the House for concurrence.**

The Senate bills

Relative to attorney's lien for fees (Senate, No. 1999); and

Authorizing the warrantless arrest for reckless or negligent vehicular homicide and reckless or negligent operation (Senate, No. 2286.);

Were severally read a second time and ordered to a third reading.

Paper from the House.

Engrossed Bill.

An engrossed Bill providing for uniform regulatory standards for certain insurance companies (see House, No. 2823, amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President and laid before the Governor for his approbation.**

Reports of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Andrea F. Nuciforo, Jr., Robert A. DeLeo, Steven C. Panagiotakos, Christopher G. Fallon and other members of the General Court for legislation to provide remedies to consumers for clearing title after payoff of mortgages.

Senate Rule 36 was suspended, on motion of Mr. Moore, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Banks and Banking.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Cynthia S. Creem and Paul J.P. Loscocco for legislation to end the double taxation of attorney's fees.

Senate Rule 36 was suspended, on motion of Mr. Moore, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Brian P. Lees for legislation relative to retirement benefits for Joan M. Reilly.

Senate Rule 36 was suspended, on motion of Mr. Moore, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael W. Morrissey and Bruce J. Ayers for legislation to establish a sick leave bank for Fagota Tupe, an

employee of the Department of Correction.

Senate Rule 36 was suspended, on motion of Mr. Moore, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Therese Murray, Robert A. O'Leary and Eric Turkington for legislation to authorize the University of Massachusetts to convey a certain parcel of land in the town of Nantucket to the Nantucket Conservation Foundation.

Senate Rule 36 was suspended, on motion of Mr. Moore, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration. Severally sent to the House for concurrence.

Paper from the House.

A petition (accompanied by bill, House, No. 4761) of James B. Leary and other members of the General Court for legislation to designate a certain bridge in the city of Worcester as the Representative Robert J. Bohigian Bridge,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Transportation.**

Reports of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to the retirement benefits for certified harbormasters and assistant harbormasters of cities and towns (Senate, No. 1473),— ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time and ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to the dissemination of criminal offender record information to the operators of camps for children (House, No. 4610),— ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill protecting consumers from unsolicited loans (Senate, No. 9), — ought to pass, with an amendment in section 1, in section 2 of the proposed chapter 140F, in clause “(b), by striking out the words “front and back” and inserting in place thereof the following words:— “front or back”;

In said section 1, in section 4 of the proposed chapter 140F, by striking out the words “Any financial institution or lender that receives” and inserting in place thereof the following words:— “Any paying bank that has paid”;

In said section 1, in said section 4 of the proposed chapter 140F, by striking out the words “an exact facsimile” and inserting in place thereof the following words:— “a substitute check”;

In section 1, in section 5 of the proposed chapter 140F, by striking out the second sentence; and

In said section 1, by striking out section 9 of the proposed chapter 140F, and inserting in place thereof the following section:—

“Section 9. (a) No financial institution or lender shall transfer any funds held in an account of the addressee in the financial institution as a consequence of a default of a debt owed to such institution as a result of the unauthorized use or fraudulent negotiation of an unsolicited loan instrument.

(b) Nothing in this chapter shall prohibit a financial institution from advancing money or credit in accordance with law and pursuant to a customer relationship, as defined in the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. section 6809 (11), or a valid mortgage or loan agreement.”

There being no objection, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 9, amended) was then ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill further regulating home improvement contractors (Senate, No. 485),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2352).

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2352) was then ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to the Cape Cod land and aquifer protection fund (Senate, No. 1243),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2353).

There being no objection, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time and was

**amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 2353) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the at Bill relative to the operation of low-speed vehicles (Senate, No. 1313) — ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2354).

**There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 2354) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to certain benefits for the surviving spouses of certain state police officers (Senate, No. 1406),— ought to pass, with an amendment, in section 1, by adding the following sentence:— “The recalculated retirement allowance shall apply prospectively from the effective date of this act.”

**There being no objection, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 1406, amended) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to creditable service for vocational education teachers (Senate, No. 1559), — ought to pass, with an amendment, striking out, in line 4, the words “employed by the City of Boston who is employed” and inserting in place thereof the following words:— “who is a member of the State-Boston retirement system who is employed as a teacher”;

By inserting after the word “purchased”, in line 18, the following words:— “plus regular interest thereon”; and

By inserting after the word “ninety”, in line 27, the following word:— “days”.

**There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 1559, amended) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to veteran’s retirement benefits (printed, as Senate, No. 1576), — ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2355.

**There being no objection,, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill, as amended, was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill authorizing the state Teachers’ Retirement Board to grant creditable service to certain employees (Senate, No. 2121),— ought to pass, with an amendment, by adding the following section:

SECTION 3. Said section 4 of said chapter 32 is hereby further amended by inserting after paragraph (g¹/₂), as appearing in the 2002 Official Edition, the following paragraph:—

(g³/₄) The period or periods before 1975 during which any member of the teachers’ retirement system or teacher who was a member of the State-Boston retirement system, who has been retired and who is receiving a retirement allowance under this chapter, who resigned for the purposes of maternity leave or who was on unpaid leave of absence for such purposes from the governmental unit in which the member was employed as a teacher and in which she had established membership in a Massachusetts contributory retirement system, shall be allowed as creditable service, on a proportionate basis, which the board shall determine according to rules and regulations adopted by the board and approved by the commission. No credit shall be allowed under this paragraph unless the teacher had completed 10 years of service. No credit shall be allowed under this paragraph for any period for which creditable service has otherwise been granted under any general or special law. The maximum creditable service allowable under this paragraph for any member shall not exceed 4 years. The maximum increase in normal yearly amount of allowance granted under this section shall not exceed \$10,000 per year.

**There being no objection, the rules were suspended, on motion of Mr. Barrios, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 2121, amended) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to the licensure and accreditation of health plans (Senate, No. 2132), — ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2340).

**There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill (Senate, No. 2340) was then ordered to a third reading.**

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill to establish standards for consumer credit counseling (Senate, No. 2266),— ought to pass, with an amendment, in section 1, in section 2 of the proposed chapter 255, by striking out

the second paragraph and inserting in place thereof the following paragraph:— “Credit counseling services may only be rendered by: (i) an attorney licensed to practice in the commonwealth; (ii) a nonprofit charitable corporation; (iii) a corporation that is recognized by the Internal Revenue Service as exempt from federal income tax; or (iv) a corporation organized under the laws of the commonwealth.”; and

In said section 1, in section 3 of the proposed chapter 255F, by striking out clause (b) and inserting in place thereof the following clause:—

“(b) any certificates or reports filed by the applicant with the state secretary as required by the commissioner.”

and in said section 1, in said section 3 of the proposed chapter 255F, by adding the following clause:—

(e) evidence of a valid license to practice law or any other document or information that the commissioner shall prescribe.

There being no objection, the rules were suspended, on motion of Mr. Barrios, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2266, amended) was then ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, on petition (accompanied by bill, Senate, No. 138), a Bill establishing a regional lockup facility in Worcester county (Senate, No. 2351).

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and ordered to a third reading.

Order Adopted.

On motion of Mr. Moore,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o’clock P.M. in a full formal session.

On motion of Mr. Barrios, at twenty-three minutes past eleven o’clock A.M., the Senate adjourned to meet on the following day at one o’clock P.M.